



**CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA**

**CITY COUNCIL STUDY SESSION
AND
REGULAR MEETING**

SEPTEMBER 8, 2015

**CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH
STUDY SESSION - 4:00 PM/CLOSED SESSION - AFTER STUDY SESSION/
REGULAR MEETING - 7:00 PM**

**EDWARD D. SELICH, Mayor
DIANE B. DIXON, Mayor Pro Tem
KEITH D. CURRY, Council Member
DUFFY DUFFIELD, Council Member
KEVIN MULDOON, Council Member
SCOTT PEOTTER, Council Member
TONY PETROS, Council Member**

**DAVE KIFF - City Manager
AARON HARP - City Attorney
LEILANI BROWN - City Clerk
CAROL JACOBS - Interim Assistant City Manager
TERRI CASSIDY - Deputy City Manager**

NOTICE TO THE PUBLIC

The City provides a yellow sign-in card for those wishing to address the Council to assist in the preparation of the minutes. The cards are available in the lobby of the Council Chambers. Speakers are not required to submit a card as a condition to addressing the Council. If you do fill out the card, please place it in the box at the podium.

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the City Clerk 24 hours prior to the scheduled City Council meeting.

PUBLIC HEARINGS: If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

This agenda was prepared by the City Clerk and staff reports are available at the City Clerk's Office located at 100 Civic Center Drive, Bay E, 2nd Floor. Staff reports or other written documentation have been prepared or organized with respect to each item of business listed on the agenda. Study Sessions are usually held on the second and fourth Tuesdays of each month at 4:00 pm (subject to change). Regular meetings of the City Council are held on the second and fourth Tuesdays of each month at 7:00 p.m., except in the months of August and December when there will be at least one regular meeting in August and one regular meeting in December. If you have any questions or require copies of any of the staff reports or other documentation regarding any item of business on the agenda, please contact City Clerk staff at (949) 644-3005. The agendas, minutes and staff reports are also available on the City's website: <http://www.newportbeachca.gov/CouncilAgendas>.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or cityclerk@newportbeachca.gov).

NEWPORT BEACH CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH
SEPTEMBER 8, 2015
STUDY SESSION - 4:00 PM/CLOSED SESSION - AFTER STUDY SESSION/
REGULAR MEETING - 7:00 PM

I. ROLL CALL - 4:00 p.m.

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar (4:00 p.m.)

SS2. Presentation of Check from the Friends of the Newport Beach Library (4:05 p.m.)

SS3. Proclamation Declaring *International Literacy Day* (4:10 p.m.)

SS4. Newport Beach Sister City Association Update and Antibes 25th Anniversary (4:15 p.m.)

Representatives from the Newport Beach Sister Cities Association will fill the Council in on the Association's activities as well as a planned celebration for the 25th anniversary of the sister cities relationship between the City and Antibes, France

SS5. Presentation by the Orange County Sanitation District on the Start of Phase II of Their PCH Sewer Force Main Project (4:35 p.m.)

The OCSD will update the Council and community on Phase II (the second and last phase) of the huge Mariner's Mile wastewater line replacement project.

SS6. JWA Settlement Agreement Amendment: Noise Monitoring Station Technology (4:50 p.m.)

This item is the same as an evening session item, and asks the Council to consider amendments to the JWA Settlement Agreement which address new technologies in noise monitoring. The County of Orange is updating the monitoring system, and side-by-side tests show a slightly higher decibel reading than the old technologies.

III. PUBLIC COMMENTS

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The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on items listed on the agenda and non-agenda items. Speakers must limit comments to three (3) minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items.

IV. CLOSED SESSION – After Study Session - Council Chambers Conference Room

**A. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code § 54957.6)**

Agency Designated Representatives: Dave Kiff, City Manager, Carol Jacobs, Interim Assistant City Manager, Terri Cassidy, Deputy City Manager, and Jonathan Holtzman; Negotiators.

Employee Organizations: All Labor Associations: Association of Newport Beach Ocean Lifeguards (ANBOL); Newport Beach City Employees Association (NBCEA); Newport Beach Employees League (NBEL); Newport Beach Firefighters Association (NBFA); Newport Beach Fire Management Association (NBFMA); Newport Beach Lifeguard Management Association (NBLMA); Newport Beach Police Association (NBPA); Newport Beach Police Management Association (NBPMA); Newport Beach Professional and Technical Employee Association (NBPTEA); and Part-Time Employee Association of Newport Beach (PTEANB).

B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Government Code § 54956.9(d)(1)): 1 matter

Kent Moore v. City of Newport Beach, et al.
Orange County Superior Court Case No. 30-2015-00769714-CU-WM-CJC

V. RECESS

VI. RECONVENE AT 7:00 P.M. FOR REGULAR MEETING

VII. ROLL CALL

VIII. CLOSED SESSION REPORT

IX. PLEDGE OF ALLEGIANCE

X. INVOCATION

XI. NOTICE TO THE PUBLIC

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XII. CITY COUNCIL ANNOUNCEMENTS (NON-DISCUSSION ITEM)

XIII. MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA

- **Sea Level Rise Policy (Selich)**
- **Examining Options Regarding Air B-N-B and VRBO Short-Term Rentals (Dixon)**
- **Changing Policy A-17 (Airport) – the FAA and Fanning v. Narrowing (Petros)**
- **Conducting a Health Risk Assessment Relating to Aviation Emissions (Petros)**

XIV. PUBLIC COMMENTS ON CONSENT CALENDAR

*This is the time in which Council Members may pull items from the **CONSENT CALENDAR** for discussion. Public comments are invited on Consent Calendar. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Council Member, members of the public are invited to speak on each item for up to three (3) minutes per item.*

All matters listed under **CONSENT CALENDAR** are considered to be routine and will all be enacted by one motion in the form listed below. Council Members have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the City Council votes on the motion unless members of the City Council request specific items to be discussed and/or removed from the Consent Calendar for separate action.

XV. CONSENT CALENDAR
(ITEMS 1 - 18)

A. READING OF MINUTES AND ORDINANCES

1. Minutes for the August 11, 2015 Study Session and Regular Meeting

Waive reading of subject minutes, approve as written, and order filed.

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

B. ORDINANCE(S) FOR ADOPTION

3. Second Reading of Ordinance No. 2015-27 Relating to the Use of the Official Seal of the City of Newport Beach

Conduct second reading and adopt Ordinance No. 2015-27, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Section 1.16.050 Regarding the Use of the Official Seal of the City of Newport Beach*, prohibiting all non-official uses of the official seal of the City of Newport Beach.

4. Second Reading of the Landscape Maintenance Code Amendments (PA2015-108)

- a) Find the project to be categorically exempt pursuant to Title 14, Chapter 3 (Guidelines for the California Environmental Quality Act) of the California Code of Regulations under Class 7;
- b) Conduct a second reading and adopt Ordinance No. 2015-25, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Code Amendment No. CA2015-007 and Amending Section 10.50.020 (Nuisance) of the Newport Beach Municipal Code (PA2015-108)*; and
- c) Conduct a second reading and adopt Ordinance No. 2015-26, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Code Amendment No. CA2015-007 and Amending Section 20.36.050 (General Landscape Standards) of the Newport Beach Municipal Code (PA2015-108)*.

C. RESOLUTION(S) FOR ADOPTION

5. Outdoor Dining One Year Pilot Program for Balboa Village (PA2015-137)

- a) Find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines; and
- b) Adopt Resolution No. 2015-69, *A Resolution of the City Council of the City of Newport Beach, California, Approving an Outdoor Dining Pilot Program for a Period of One Year Within Balboa Village (PA2015-137)*.

6. Revision of City Council Policy G-1 (Retention or Removal of City Trees) and City Council Policy G-6 (Maintenance and Planting of Parkway Trees)

- a) Adopt Resolution No. 2015-70, *A Resolution of the City Council of the City of Newport Beach, California, Amending City Council Policy G-1 (Retention, Removal, and Maintenance of City Trees)*; and
- b) Adopt Resolution No. 2015-71, *A Resolution of the City Council of the City of Newport Beach, California, Amending City Council Policy G-6 (Maintenance and Planting of Parkway Trees)*.

7. Amend City Council Policy F-9 (City Vehicle/Equipment Guidelines)

Adopt Resolution No. 2015-72, *A Resolution of the City Council of the City of Newport Beach, California, Amending City Council Policy F-9 (City Vehicle/Equipment Guidelines)*.

8. Resolution to Revise Street Sweeping Parking Restrictions

- a) Rescind Resolution No. 2014-91; and
- b) Adopt Resolution No. 2015-73, *A Resolution of the City Council of the City of Newport Beach, California, Establishing "No Parking" Restrictions on Designated Streets on Specific Days and Times to Improve Street Sweeping Effectiveness and Rescinding Resolution No. 2014-91.*

9. Investment Policy Review and Update

With the Finance Committee's incorporated recommendations, staff recommends that Council formally approve the proposed changes by adopting Resolution No. 2015-74, *A Resolution of the City Council of the City of Newport Beach, California, Finding Consistency with Stated Investment Objectives and Amending City Council Policy F-1, Statement of Investment Policy, to Allow the City to Invest in Supranational Bonds; and to Make Applicable the Investment Policy's Percentage Limitations for All Types of Securities only on the Date of Purchase, Consistent with California Code Section 53601.* These changes are in furtherance of the City's investment objectives.

D. CONTRACTS AND AGREEMENTS

10. Renewal of a Cooperative Agreement for Total Maximum Daily Load (TMDL) Program Planning and Implementation for Nutrients, Fecal Coliform Bacteria and Toxics in the Newport Bay Watershed

Authorize the Mayor and the City Clerk to execute Amendment No. 1 to Agreement D11-066, in substantially the same form as the attached amendment, to extend the term and funding for implementing TMDL planning programs, studies, and monitoring in the Newport Bay Watershed.

11. Traffic Signal Modernization Project - Phase 8 - Award of Construction Contract No. 6079 (15T11/CAP 15-021)

- a) Approve the project drawings and specifications;
- b) Award Contract No. 6079 to Pro Tech Engineering Corporation for the total bid price of \$670,225.00, and authorize the Mayor and the City Clerk to execute the contract; and
- c) Establish an amount of \$67,000 (10%) to cover the cost of unforeseen work.

12. Multiple Buildings Roofing Project - Reject All Bids - Contract No. 6226

Reject the bid received from Best Contracting Services, Inc.

13. Plan Review Services - Amendment to the Professional Services Agreement with VCA Code and JAS Pacific and Approval of Budget Amendment

- a) Find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines;
- b) Approve and authorize the Mayor and City Clerk to execute an amendment to the Professional Services Agreement with The Code Group, dba VCA Code, for an additional \$166,847 with a not to exceed limit of \$1,546,847;
- c) Approve and authorize the Mayor and City Clerk to execute an amendment to the Professional Services Agreement with Jason Addison Smith Consulting, Inc., dba JAS Pacific for an additional \$180,750 with a not to exceed limit of \$1,121,750; and
- d) Approve Budget Amendment No. 16BA-002, increasing department expenditures by \$347,597.

14. Cooperative Agreement between the City of Newport Beach and The Regents of The University of California for Marina Park Community Boating Program

- a) Approve the Cooperative Agreement between the City of Newport Beach (City) and The Regents of The University of California (the University); and
- b) Authorize Director of Recreation & Senior Services Department to execute documents necessary to implement the Cooperative Agreement and approve future amendments to the Cooperative Agreement as needed.

15. JWA Settlement Agreement Amendment: Noise Monitoring Station

- a) Find that the execution of the Tenth Supplemental Stipulation to the JWA Settlement Agreement is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines;
- b) Find that that the Tenth Supplemental Stipulation to the JWA Settlement Agreement complies with City Council Policy A-17; and
- c) Authorize the City Attorney to execute the Tenth Supplemental Stipulation to the JWA Settlement Agreement on behalf of the City.

E. MISCELLANEOUS

16. Planning Commission Agenda and/or Action Report for the August 20, 2015 and September 3, 2014 Meetings

Receive and file.

17. Budget Amendment to Accept a Check from the Friends of the Newport Beach Library and Appropriate Funds to the Library's Fiscal Year 2015/2016 Maintenance and Operation Budget

Approve Budget Amendment 16BA-005 to increase revenue estimates by \$205,000 in Account 0106052-511080 (Friends of the Library Donations) and to increase expenditure estimates by the same amount in Division 0106052 (Friends of the Library) and Division 01060604 (Literacy Services).

18. Rehabilitation of the City's Radio Communication Tower

Approve Budget Amendment No. 16BA-006 appropriating \$400,000 for the rehabilitation of the City Radio Tower Rehabilitation Project from unappropriated fund balance. If approved, 80 percent will be funded by the 800 MHz Equipment Fund, 15 percent will be funded by the Water Fund and 5 percent will be funded by the Wastewater Fund.

ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED

XVI. ITEMS REMOVED FROM THE CONSENT CALENDAR

XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the City Council. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record.

XVIII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

XIX. PUBLIC HEARING(S)

19. Community Development Block Grant, Program Year 2014-2015, Consolidated Annual Performance and Evaluation Report

- a) Hold a public hearing to receive comments on the Program Year 2014-2015 CAPER;

- b) Find the approval of the Program Year 2014-2015 CAPER is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines;
- c) Approve the Program Year 2014-2015 CAPER; and
- d) Direct the City Manager or his designee to submit the Program Year 2014-2015 CAPER to HUD.

20. Approval of Master Fee and Change in Subsidies Continuation

Continue the item to the September 22, 2015 City Council meeting.

XX. CURRENT BUSINESS

21. Appointments to the Board of Library Trustees

Make two appointments to the Board of Library Trustees from the nominees listed below, with an effective appointment date of June 30, 2015, for the sole purpose of calculating the start date of the four year term:

Board of Library Trustees

Gloria Alkire
Jill Johnson-Tucker (incumbent)
Janet Ray
David Sheffner

22. East Coast Highway Traffic Signal Rehabilitation Project - Award of Construction Contract No. 5418 (15T04/CAP13-0017)

- a) Approve the project drawings and specifications;
- b) Award Contract No. 5418 to Dynalectric for the total bid price of \$1,993,887.00, and authorize the Mayor and the City Clerk to execute the contract;
- c) Establish an amount of \$200,000.00 (approximately 10%) to cover the cost of unforeseen work not included in the original contract;
- d) Approve Budget Amendment No. 16BA-007 appropriating \$855,200 from the unappropriated Pacific Coast Highway Relinquishment Fund (137) to Account No. 13701-980000-15T04 (East Coast Highway Traffic Signal Rehabilitation project); and
- e) Authorize staff to execute a sole-source purchase with Pacific Lighting Sales, Inc. of custom LED luminaires and decorative scrolls for six intersections within Corona del Mar Village.

XXI. MOTION FOR RECONSIDERATION

A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Council Members who voted with the prevailing side.

XXII. ADJOURNMENT

Testimony given before the City Council is recorded.
The timing light will turn yellow when the speaker has one minute left.
The timing light will turn red when the speaker has 10 seconds left.

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.